



General Assembly

***Substitute Bill No. 5184***

*February Session, 2000*

***An Act Concerning The Certification Of Water Treatment Plant  
And Water Distribution System Operators.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Section 25-32 of the general statutes, as amended by  
2       section 63 of public act 99-2 of the June special session, is repealed and  
3       the following is substituted in lieu thereof:

4       (a) The Department of Public Health shall have jurisdiction over all  
5       matters concerning the purity and adequacy of any water supply  
6       source [of water supply] used by any municipality, public institution  
7       or water company for obtaining water, the safety of any distributing  
8       plant and system for public health purposes, the adequacy of methods  
9       used to assure water purity, and such other matters relating to the  
10      construction and operation of such distributing plant and system as  
11      may affect public health. [The qualifications of the operators of water  
12      treatment plants or water distribution systems which treat or supply  
13      water used or intended for use by the public shall be subject to the  
14      approval of said department pursuant to regulations adopted by the  
15      commissioner in accordance with chapter 54.]

16      (b) No water company shall sell, lease, assign or otherwise dispose  
17      of or change the use of any watershed lands, except as provided in  
18      section 25-43c, as amended by [this act] public act 99-2 of the June  
19      special session, without a written permit from the Commissioner of

20 Public Health. [Said] The commissioner shall not grant a permit for the  
21 sale, lease or assignment of class I land, except as provided in  
22 subsection (d) of this section, and shall not grant a permit for a change  
23 in use of class I land unless the applicant demonstrates that such  
24 change will not have a significant adverse impact upon the present and  
25 future purity and adequacy of the public drinking water supply and is  
26 consistent with any water supply plan filed and approved pursuant to  
27 section 25-32d. The commissioner may reclassify class I land only upon  
28 determination that such land no longer meets the criteria established  
29 by subsection (a) of section 25-37c because of abandonment of a water  
30 supply source or a physical change in the watershed boundary. Not  
31 more than fifteen days before filing an application for a permit under  
32 this section, the applicant shall provide notice of such intent, by  
33 certified mail, return receipt requested, to the chief executive officer  
34 and the chief elected official of each municipality in which the land is  
35 situated.

36 (c) The [Commissioner of Public Health] commissioner may grant a  
37 permit for the sale, lease, assignment or change in use of any land in  
38 class II subject to any conditions or restrictions in use which the  
39 commissioner may deem necessary to maintain the purity and  
40 adequacy of the public drinking water supply, giving due  
41 consideration to: (1) The creation and control of point or nonpoint  
42 sources of contamination; (2) the disturbance of ground vegetation; (3)  
43 the creation and control of subsurface sewage disposal systems; (4) the  
44 degree of water treatment provided; (5) the control of watershed land  
45 by the applicant through ownership, easements or use restrictions or  
46 other water supply source protection measures; (6) the effect of  
47 development of any such land; and (7) any other significant potential  
48 source of contamination of the public drinking water supply. The  
49 commissioner may reclassify class II land only upon determination  
50 that such land no longer meets the criteria established by subsection  
51 (b) of section 25-37c because of abandonment of a water supply source  
52 or a physical change in the watershed boundary.

53 (d) The commissioner may grant a permit for the sale of class I or II

54 land to another water company, to a state agency or to a municipality  
55 if the purchasing entity agrees to maintain the land subject to the  
56 provisions of this section, any regulations adopted pursuant to this  
57 section and the terms of any permit issued pursuant to this section.  
58 Such purchasing entity may not sell, lease, assign or change the use of  
59 such land without obtaining a permit pursuant to this section.

60 (e) The commissioner shall not grant a permit for the sale, lease,  
61 assignment or change in use of any land in class II unless (1) the land  
62 in class II is being sold, leased or assigned as part of a larger parcel of  
63 land also containing land in class III and use restrictions applicable to  
64 the land in class II will prevent the land in class II from being  
65 developed, or (2) the applicant demonstrates that the proposed sale,  
66 lease, assignment or change in use will not have a significant adverse  
67 impact upon the purity and adequacy of the public drinking water  
68 supply and that any use restrictions which the commissioner requires  
69 as a condition of granting a permit can be enforced against subsequent  
70 owners, lessees and assignees, and (3) the commissioner determines,  
71 after giving effect to any use restrictions which may be required as a  
72 condition of granting the permit, that such proposed sale, lease,  
73 assignment or change in use will not have a significant adverse effect  
74 on the public drinking water supply, whether or not similar permits  
75 have been granted.

76 (f) [The term "public water supply source"] As used in this section,  
77 (1) "water supply source" includes all springs, streams, watercourses,  
78 brooks, rivers, lakes, ponds, wells or underground waters from which  
79 water is taken, and all springs, streams, watercourses, brooks, rivers,  
80 lakes, ponds, wells or aquifer protection areas, as defined in section  
81 22a-354h, thereto and all lands drained thereby; and [the term] (2)  
82 "watershed land" means land from which water drains into a public  
83 drinking water supply.

84 (g) The [Commissioner of Public Health] commissioner shall adopt  
85 and from time to time may amend the following: (1) Physical,  
86 chemical, radiological and microbiological standards for the quality of

87 public drinking water; (2) minimum treatment methods, taking into  
88 account the costs [thereof] of such methods, required for all sources of  
89 drinking water, including guidelines for the design and operation of  
90 treatment works and water sources, which guidelines shall serve as the  
91 basis for approval of local water supply plans by [said] the  
92 commissioner; (3) minimum standards to assure the long-term purity  
93 and adequacy of the public drinking water supply to all residents of  
94 this state; and (4) classifications of water treatment plants and water  
95 distribution systems which treat or supply water used or intended for  
96 use by the public. On or after October 1, 1975, any water company  
97 which requests approval of any drinking water source shall provide  
98 for such treatment methods as specified by the [Commissioner of  
99 Public Health] commissioner, provided any water company in  
100 operation prior to October 1, 1975, and having such source shall  
101 comply with regulations adopted by [said] the commissioner, in  
102 accordance with chapter 54, in conformance with The Safe Drinking  
103 Water Act, Public Law 93-523, and shall submit on or before February  
104 1, 1976, a statement of intent to provide for treatment methods as  
105 specified by [said] the commissioner, to [said] the commissioner for  
106 approval.

107 (h) The [Department of Public Health] department may perform the  
108 collection and testing of water samples required by regulations  
109 adopted by the commissioner pursuant to this section, in accordance  
110 with chapter 54, when requested to do so by [the] a water company.  
111 The department shall collect a fee equal to the cost of such collection  
112 and testing. Water companies serving one thousand or more persons  
113 shall not request routine bacteriological or physical tests under this  
114 subsection.

115 (i) The condemnation by a state department, institution or agency of  
116 any land owned by a water company shall be subject to the provisions  
117 of this section.

118 (j) The commissioner may issue an order declaring a moratorium on  
119 the expansion or addition to any existing public water system that the

120 commissioner deems incapable of providing new services with a pure  
121 and adequate water supply.

122 (k) The commissioner may issue, modify or revoke orders as needed  
123 to carry out the provisions of part III of this chapter. Except as  
124 [provided] otherwise provided in this part, such order shall be issued,  
125 modified or revoked in accordance with procedures set forth in  
126 subsection (b) of section 25-34.

127 (l) The [Commissioner of Public Health] commissioner shall adopt  
128 regulations, in accordance with the provisions of chapter 54, to include  
129 local health departments in the notification process when a water  
130 utility reports a water quality problem.

131 (m) (1) On and after the effective date of regulations adopted under  
132 this subsection, no person may operate any water treatment plant or  
133 water distribution system that treats or supplies water used or  
134 intended for use by the public without a certificate issued by the  
135 commissioner under this subsection. The commissioner shall adopt  
136 regulations, in accordance with chapter 54, to provide: (A) Standards  
137 for the operation of such water treatment plants and water distribution  
138 systems; (B) standards and procedures for the issuance of certificates to  
139 operators of such water treatment plants and water distribution  
140 systems; (C) procedures for the renewal of such certificates every three  
141 years; and (D) standards for training required for the issuance or  
142 renewal of a certificate. Such regulations shall be consistent with  
143 applicable federal law and guidelines for operator certification  
144 programs promulgated by the United States Environmental Protection  
145 Agency, and shall be adopted and filed with the Secretary of the State  
146 pursuant to section 4-172 not later than February 1, 2001.

147 (2) The commissioner may take any disciplinary action set forth in  
148 section 19a-17, except for the assessment of a civil penalty under  
149 subdivision (6) of subsection (a) of said section, against an operator  
150 holding a certificate issued under this subsection for any of the  
151 following reasons: (A) Fraud or material deception in procuring or

152 attempting to procure a certificate, the renewal of a certificate or the  
153 reinstatement of a certificate; (B) fraud or material deception in the  
154 performance of the certified operator's professional activities; (C)  
155 incompetent, negligent or illegal performance of the certified  
156 operator's professional activities; (D) conviction of the certified  
157 operator for a felony; or (E) failure of the certified operator to complete  
158 the training required under subdivision (1) of this subsection.

159       Sec. 2. Section 25-32e of the general statutes, as amended by section  
160 24 of public act 99-215, is repealed and the following is substituted in  
161 lieu thereof:

162       (a) If, upon review, investigation or inspection, the Commissioner of  
163 Public Health determines that a water company has violated any  
164 provision of section 25-32, as amended by this act, section 25-32d or  
165 any regulation adopted [thereunder] under section 25-32d, or any  
166 regulation in the Public Health Code relating to the purity and  
167 adequacy of water supplies or to the testing of water supplies or any  
168 report of such testing, [he] the commissioner may impose a civil  
169 penalty not to exceed five thousand dollars per day per violation upon  
170 such water company. Governmental immunity shall not be a defense  
171 against the imposition of any civil penalty imposed pursuant to this  
172 section. The [Commissioner of Public Health] commissioner shall  
173 adopt regulations, in accordance with the provisions of chapter 54,  
174 establishing a schedule or schedules of the amounts, or the ranges of  
175 amounts, of civil penalties which may be imposed under this section.  
176 In adopting such regulations, the commissioner shall consider the size  
177 of the water company, the level of assessment necessary to insure  
178 immediate and continued compliance with such provision, and the  
179 character and degree of injury or impairment to or interference with or  
180 threat thereof to: (1) The purity of drinking water supplies; (2) the  
181 adequacy of drinking water supplies; and (3) the public health, safety  
182 or welfare. No such civil penalty may be imposed until the regulations  
183 required by this subsection have been adopted.

184       (b) In setting a civil penalty in a particular case, the commissioner

185 shall consider all factors which [he] the commissioner deems relevant,  
186 including, but not limited to, the following: (1) The amount of  
187 assessment necessary to insure immediate and continued compliance  
188 with such provision; (2) the character and degree of impact of the  
189 violation on the purity and adequacy of drinking water supplies; (3)  
190 whether the water company incurring the civil penalty is taking all  
191 feasible steps or procedures necessary or appropriate to comply with  
192 such provisions or to correct the violation; (4) any prior violations by  
193 such water company of statutes, regulations, orders or permits  
194 administered, adopted or issued by the commissioner; (5) the character  
195 and degree of injury to, or interference with, public health, safety or  
196 welfare which has been or may be caused by such violation.

197 (c) If the commissioner has reason to believe that a violation has  
198 occurred, [he] the commissioner may impose a penalty if compliance is  
199 not achieved by a specified date and send to the violator, by certified  
200 mail, return receipt requested, or personal service, a notice which shall  
201 include: (1) A reference to the sections of the statute or regulation  
202 involved; (2) a short and plain statement of the matters asserted or  
203 charged; (3) a statement of the amount of the civil penalty or penalties  
204 to be imposed; (4) the initial date of the imposition of the penalty, and  
205 (5) a statement of the party's right to a hearing.

206 (d) The civil penalty shall be payable for noncompliance on the date  
207 specified in subsection (c) of this section and for each day thereafter  
208 until the water company against [whom] which the penalty was issued  
209 notifies the commissioner that the violation has been corrected. Upon  
210 receipt of such notification, the commissioner shall determine whether  
211 or not the violation has been corrected and shall notify the water  
212 company, in writing, of such determination. The water company may,  
213 within twenty days after such notice is sent by the commissioner,  
214 request a hearing to contest an adverse determination. If, after such  
215 hearing, the commissioner finds that the violation still exists, or if the  
216 water company fails to request a hearing, the penalty shall continue in  
217 force from the original date of imposition.

218 (e) The water company to [whom] which the notice is addressed  
219 shall have twenty days from the date of mailing of the notice to make  
220 written application to the commissioner for a hearing to contest the  
221 imposition of the penalty. All hearings under this section shall be  
222 conducted pursuant to sections 4-176e to 4-184, inclusive. Any civil  
223 penalty may be mitigated by the commissioner upon such terms and  
224 conditions as [he in his] the commissioner, in the commissioner's  
225 discretion, deems proper or necessary upon consideration of the  
226 factors set forth in subsection (b) of this section.

227 (f) A final order of the commissioner assessing a civil penalty shall  
228 be subject to appeal as set forth in section 4-183, as amended, after a  
229 hearing before the commissioner pursuant to subsection (e) of this  
230 section, except that any such appeal shall be taken to the superior court  
231 for the judicial district of New Britain and shall have precedence in the  
232 order of trial as provided in section 52-191. Such final order shall not  
233 be subject to appeal under any other provision of the general statutes.  
234 No challenge to any such final order shall be allowed as to any issue  
235 which could have been raised by an appeal of an earlier order, notice,  
236 permit, denial or other final decision by the commissioner.

237 (g) If any water company fails to pay any civil penalty, the Attorney  
238 General, upon request of the [Commissioner of Public Health]  
239 commissioner, may bring an action in the superior court for the  
240 judicial district of Hartford to obtain enforcement of the penalty by the  
241 court. All actions brought by the Attorney General pursuant to the  
242 provisions of this section shall have precedence in the order of trial as  
243 provided in section 52-191.

244 (h) The provisions of this section are in addition to and not in  
245 derogation of any other enforcement provisions of any statute  
246 administered by the commissioner. The powers, duties and remedies  
247 provided in such other statutes, and the existence of or exercise of any  
248 powers, duties or remedies under this section or under such other  
249 statute shall not prevent the commissioner from exercising any other  
250 powers, duties or remedies available to [him] the commissioner at law



251 or in equity.

252 Sec. 3. This act shall take effect from its passage.

**PH Committee Vote:** Yea 21 Nay 4 JFS

**JUD Committee Vote:** Yea 26 Nay 1 JF